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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/533,589	09/25/1995	IGOR PALLEY	30-3744	9539

7590 03/12/2002

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EXAMINER

ELOSHWAY, NIKI MARINA

ART UNIT

PAPER NUMBER

3727

DATE MAILED: 03/12/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	08/533,589	PALLEY ET AL.
Examiner	Art Unit	
Niki M. Ełoszway	3727	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 08 January 2002 .

2a)  This action is **FINAL**.                    2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-117 is/are pending in the application.

4a) Of the above claim(s) 7, 39-41, 58-73, 77-117 is/are withdrawn from consideration.

5)  Claim(s) 10 is/are allowed.

6)  Claim(s) 1-6,8,9,11-38,42-57 and 74-76 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)  The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

14)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a)  The translation of the foreign language provisional application has been received.

15)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1)  Notice of References Cited (PTO-892) 4)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948) 5)  Notice of Informal Patent Application (PTO-152)  
3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_. 6)  Other: \_\_\_\_\_

## **DETAILED ACTION**

### *Specification*

1. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

### *Election/Restrictions*

2. Claims 7, 39-41, 58-73 and 77-117 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention and/or species, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 14.

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-6, 8, 11-38, 42-57 and 74-76 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sacks (U.S. 5,249,534) in view of Lewis (U.S. 0,674,009). Sacks discloses the claimed invention except for the first and second strips of material being bands. Sacks teaches a third strip of material which encircles the container, however, the first and second strips of material do not extend to cover the bottom of the container. Lewis teaches that it is known to provide a container, made of three bands, wherein the ends of each of the first and second strips meet to form bands (see elements A, B and C). It would have been obvious to one having ordinary skill in the art at the time

the invention was made to provide the container of Sacks with the first and second bands forming tubes, as taught by Lewis, in order to protect the entire inner container, including the bottom wall thereof.

Sacks teaches a first band (col. 1 lines 65-68, a second band (col. 1 line 68 to col. 2 line 4) and a third band col. 2 lines 4-7. The third band is considered substantially seamless to the degree set forth in the claim. Regarding claim 8, the rigid support structure is the container set forth in col. 1 lines 61-65. The bands of Sacks can be made of SPECTRA, as set forth in col. 1 lines 33-42. this SPECTRA material is the same material used in applicant's invention, and therefore has the same characteristics.

5. Claims 9 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sacks in view of Rosenbloom, Jr. et al. (U.S. 4,290,468). Sacks discloses the claimed invention except for the rigid support frame. Rosenbloom, Jr. et al. teach that it is known to provide a container with a rigid support frame. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the container of Sacks with the rigid support frame of Rosenbloom, Jr. et al., in order to increase the strength of and provide additional support for the container.

#### *Allowable Subject Matter*

6. Claim 10 is allowed.

#### *Response to Arguments*

7. Applicant's arguments filed January 8, 2002 have been fully considered but they are not persuasive. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In*

Art Unit: 3727

*re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, both references are drawn to container structures. The Lewis reference shows basic container structure, which is knowledge generally available to one of ordinary skill in the art.

8. In response to applicant's argument that the "Lewis bands must only abut, not overlap, and not cover the edges/joints as required by Applicants' claimed invention" (page 5 of Applicant's Response filed January 8, 2002), it is noted that these features upon which applicant relies are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

### *Conclusion*

9. **THIS ACTION IS MADE NON-FINAL.**

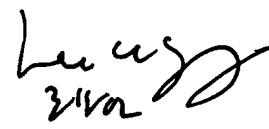
10. In order to reduce pendency and avoid potential delays, Group 3720 is encouraging FAXing of responses to Office Actions directly into the Group at (703)305-3579. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a USPTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into group 3720 will be promptly forwarded to the examiner.

Art Unit: 3727

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Niki M. Eloshway whose telephone number is (703) 308-1606. The examiner is in the office on Tuesdays and Fridays. Any inquiry of a general nature or relating to the status of this application should be directed to the 3700 Customer Service Office at (703) 306-5648.



Niki M. Eloshway/nme  
Patent Examiner  
March 8, 2002



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